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SIPDIS

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SUBJECT: SEVENTH ANNUAL TRAFFICKING IN PERSONS (TIP) REPORT
FOR FRANCE, PART TWO OF TWO

REF: 2006 STATE 202745

INVESTIGATION/PROSECUTION - Question 29.

1A. French law specifically forbids trafficking in human beings -- defined as "the recruitment, transport, transfer, accommodation, or reception of a person in exchange for remuneration or any other benefit or for the promise of remuneration or any other benefit, in order to put him at the disposal of a third party, whether identified or not, so as to permit the commission against that person of offenses of procuring, sexual assault or attack, exploitation for begging, or the imposition of living or working conditions inconsistent with human dignity, or to force this person to commit any crime or misdemeanor" - for both sexual and non-sexual purposes (French penal code, Book II, Title II,

Chapter V, Sec 1bis, Article 225-4-1 and following).

Two laws forbid subjecting a person to working and living conditions which infringe on human dignity: Article 225-13 of the Penal Code notes that "obtaining the performance of unpaid services or of services against which a payment is made which clearly bears no relation to the importance of the work performed from a person whose vulnerability or dependence is obvious or known to the offender is punished by five year's imprisonment and by a fine of 150,000 euros;" Article 225-14 notes that "subjecting a person whose vulnerability or dependence is obvious or known to the offender to working or living conditions incompatible with human dignity is punished by five years' imprisonment and by a fine of 150,000 euros." Further, subsequent articles (225-15 and 225-15-1) provide for stiffer penalties for persons who conduct either of the two previous activities against more than one person (seven year's prison and 200,000 euros); against a minor (seven years' prison and 200,000 euros; or against several persons, of whom one is a minor (10 years' prison and 300,000 euros).

There is no law that specifically forbids slavery in the French penal code, although, as a signatory to the European Convention on Human Rights, article 4 of which forbids slavery, France forbids slavery. A senator and a parliamentarian from the centrist party have introduced a bill that would criminalize slavery and servitude in France, though neither the Senate nor the National Assembly has yet taken up the measure.

B. and C. Penalties are the same for sexual and labor exploitation trafficking, as the French legal definition of trafficking covers both (see para above). Trafficking in persons is punishable by up to seven years in prison and a fine of up to 150,000 euros (Art. 225-4-1). The penalty rises to 10 years' imprisonment and a 1.5-million-euro fine if the trafficking involves a minor, pregnant woman, or other "vulnerable persons"; a person "upon his arrival on (French) territory;" if threats are used; or if the perpetrator holds a position that requires him/her to fight against human trafficking or in any of several other aggravating circumstances (Art. 225-4-2). If an organized gang perpetrates the trafficking, it is punishable by 20 years' imprisonment and a 3-million-euro fine (Art. 225-4-3), and if the trafficking is committed with "recourse to torture or acts of barbarity," the perpetrator(s) incurs life imprisonment and a 4.5-million-euro fine (Art. 225-4-4).

D. Sexual assault is punishable by up to five years in prison and a 75,000-euro fine (Art. 222-27), seven years and 100,000 euros if the victim is under 15 years of age or if there are aggravating circumstances (Arts. 222-28 and 222-29). Convicted rapists can receive up to 15 years in prison (Art. 222-23); if the rape was committed against someone under 15 years of age, the penalty increases to up to 20 years (Art. 222-24).

E. Prostitution itself is not illegal, but exploiting someone to prostitute him or herself (e.g. pimping, or "procuring" someone else) is illegal, as is solicitation. Prostitutes can be arrested for 'passive' solicitation (as determined by the police; the law is vague on what constitutes 'passive conduct,' and this can include even the manner of dress or having a large number of condoms on one's person). The age of majority in France is 18. Anyone soliciting, accepting, or obtaining a person of less than 18 years of age for sexual services in exchange for remuneration or the promise of it is subject to three years' imprisonment and a 45,000-euro fine (French penal code Article 225-12-1), more for aggravating circumstances (Article 225-12-2), and even more (seven years' prison and a fine of 100,000 euros) if the child is less than 15 years of age (Art. 225-12-3). Solicitation can bring up to two months in jail and up to 3,750 euros in fines (Art. 225-10-1). Pimps are punished under laws prohibiting "procuring," defined as when a person "in any manner 1) helps, assists, or protects the prostitution of others; 2) makes a profit out of the

prostitution of others, shares the proceeds of it, or receives income from a person engaging habitually in prostitution; and/or 3) hires, trains, or corrupts a person with a view to prostitution or exercises on such a person pressure to practice prostitution or to continue doing so." (Art 225-5) Procuring is punished by seven years' imprisonment and a fine of 150,000 euros. The law also criminalizes acting as an intermediary between a prostitute and a pimp; facilitating the justification of a pimp's fictitious resources; being unable to account for one's income when one lives with a prostitute; and obstructing prevention, control, assistance, or re-education efforts for prostitute(s). Under aggravating circumstances (including where the prostitute is a minor), procuring is punishable by ten years' imprisonment and a fine of 1.5 million euros (Art. 225-7), and if the prostitute is under 15 years old, it is punishable by 15 years' imprisonment and a 3-million-euro fine (Art. 225-7-1). If an organized gang does the procuring, the punishment is 20 years' prison and a 3-million-euro fine (Art 225-8), and if the procurer(s) resort to torture or acts of barbarity, it is punishable by life imprisonment and a 4.5-million-euro fine (Art 225-9).

¶F. As of the end of February, France has not yet compiled its official statistics for 2006; OCRETH finalizes and presents each year,s statistics at the end of April. However, OCRETH has provided us preliminary numbers for 2006. Given the relative weight of the sex trade in slavery in France, post believes it appropriate to examine pimping and solicitation arrests in addition to trafficking data, as the former are likely also reflective of convictions of persons running trafficked persons (mostly women) in the sex trade.

The Ministry of Interior released preliminary figures showing that in 2006, 746 persons were charged with pimping, of whom 55 percent were foreign and 40 percent women. In comparison, the final OCRETH assessment of 2005 figures, 880 persons were charged with pimping, of whom 55 percent were foreign, but only 30 percent were women. As with the total number of victims (see paragraph A.), the percentage of Esatern Europeans charged with pimping fell significantly from 2005 to 2006, from about 30 percent to about 20 percent. OCRETH said that authorities identified 1,219 victims in 2006, up from 1,189 in 2005. Although OCRETH Acting Director Emile Lain said the number of minors charged with pimping has dropped into the single digits, he could not furnish an exact number at this stage.

In September, the Justice Ministry shared its statistics on convictions for pimping, solicitation, and trafficking for ¶2005. According to its figures, in 2005, there were 1,603 convictions for pimping and aggravated pimping (some of which could have been the same person convicted on multiple counts). Post's NGO contacts believe, and OCRETH's Emile Lain concurs, that prosecutors continue to apply the anti-pimping laws in place of the anti-trafficking provision with regard to sex slaves because the anti-pimping laws are so strong, and prosecutors are accustomed to using them. However, more than 50 people charged in a Bulgarian Roma baby-selling ring busted by OCRETH and local police officials in Lille and Marseille in October, 2005 were charged on the basis of the anti-trafficking law, resulting in convictions for all but one defendant.

In any event, in 2005 there were 346 convictions on the basis of the two basic anti-pimping laws; 245 aggravated pimping convictions for those instances with a plurality of authors or accomplices; and 507 aggravated pimping convictions for those cases in which there was more than one victim. There was one conviction for aggravated pimping of a victim of less than 15 years of age.

The government provided information on the penalties imposed ONLY for those cases in which the pimping count in question was the sole infraction for which the individual was committed. In many cases, persons were convicted on several different counts, so we have only a kind of anecdotal sample as regards penalties. (NOTE: Government officials were

trying to give the most accurate picture possible of the sentence received for the specific pimping infraction. For that reason, they did not/not provide the penalty if the pimping infraction was only one among two or more convictions that a person received. For example, if the person had been convicted of murder in addition to pimping, the penalty would obviously be much higher, and there would be no way to know how much of the penalty applied to the pimping conviction. END NOTE)

With this caveat in mind, we learn that, for example, on code 10495, "aggravated pimping in which the vulnerability of the victim was apparent," there were 12 convictions in 2005. In five of those cases, the conviction was only one of the convictions for which the person was sentenced; in four cases it was the FIRST of a list of convictions, and in three cases it was the ONLY conviction the person received. In these three cases, the people convicted on this count, and ON NO OTHER COUNT, received firm prison terms (without suspension or possibility of parole) averaging 16 months. However, for the nine other persons convicted of that particular infraction in 2005, we have no information on the penalty received.

Of the 55 persons convicted of "aggravated pimping involving a minor from 15 to 18 years of age," only eight were convicted solely on this count; seven of those persons received a firm prison term, serving an average of little more than 25 months each.

Of the 118 persons for whom "aggravated pimping because the case involved multiple victims" was their SOLE conviction (out of the 507 total convictions for that infraction), 107 received prison terms, 85 of them firm. The average prison term was three years and six months.

Of the 37 persons convicted solely of "aggravated pimping in the case where there were multiple authors or accomplices" (of the 245 total convictions for the infraction), 31 received prison terms, 26 of them firm; the average time served was just under 18 months..

Of the 309 persons convicted in 2005 on the basis of the basic anti-pimping law that prohibits aiding, assisting, or protecting the prostitution of another, for 53 it was the sole infraction. Of those 53, 36 received prison sentences, 17 of them firm; the average time served over 18 months. Thirteen of the 53 received fines, the average of which was 843 euros.

In the case of the one 2005 conviction for "aggravated pimping because the victim was less than 15 years old," we have no information on the penalty received, because the person was convicted on one or more other counts.

Post can provide more detail on convictions relative to other pimping infractions; here we have provided a random sample.

As regards domestic forced servitude, the Committee Against Modern Slavery (CCEM) helps victims bring claims against their "employers" (one-fifth of which claim diplomatic immunity as members of the diplomatic corps) on the basis of Penal Code Articles 225-13 and 225-14 (see above). In 2006, the victims won several cases. According to CCEM officials, their judicial service is currently working on the cases of 89 victims at various stages of the judicial process, 39 of which are new cases that they took on in 2006.

1G. In 2006, according to OCRETH, French authorities dismantled 34 international trafficking networks and several (OCRETH could not yet provide this number) France-based trafficking networks. There are large and small networks operating in France, and often, the chiefs of the networks do not enter France, but stay out in the country of origin, or sometimes a third country. There is no indication that any French government officials are involved in trafficking.

1H. The French government actively investigates trafficking

cases, using surveillance, telephone taps, and a wide range of investigative techniques. In addition, French law encourages the testimony of trafficking victims by providing residency cards for victims who file a complaint or testify in cases that end in a conviction, but French police can also proceed (on an investigation, or with taps, etc.) without a victim's complaint or testimony.

I. OCRETH has organized with Fondation Scelles (see NGO descriptions in Part II) a National Day of Cooperation that will bring together magistrates, prosecutors, police, academics, and NGO representatives. The conference, scheduled for March 13, 2007, will provide training especially to police representatives to sensitize them to the vulnerabilities and appropriate treatment of trafficking. A 2005 effort to raise awareness among the police forces, and to encourage attacking the "small hands" the ground level) of trafficking networks, has continued with meetings and training sessions. The results of this effort can be seen in increased arrests for soliciting seen (2542 convictions in 2005 versus 1893 in 2004.) In addition, OCRETH hosts various police officials or judicial magistrates for rotations, in which the officials learn more about OCRETH's work and the French government's aims. OCRETH invites NGOs to facilitate at these training sessions. Recently these training sessions have been extended to the police academy and law school in Paris. Soon similar Awareness Seminars will be offered in Prefectures around France.

J. The French government cooperates with other governments in investigating and prosecuting traffickers and in trying to prevent trafficking from occurring.

OCRETH has an officer posted in the French Embassy in Sofia, Bulgaria, to serve as a liaison with Bulgarian officials to combat the trafficking of Bulgarian nationals to France. The officer is attached to the French police attach's office. A program debuted in 2005 to bring Bulgarian police to France for exchanges continued in 2006, with 3 Bulgarian police serving alongside OCRETH officials. In Bucharest, Romania, the French Embassy has a large cell that works closely with local police to address the trafficking issue; the OCRETH in Paris works with the Romanian police attach here; and the French MFA recently led a mission comprised of officials and NGOs to Romania to share best practices with their counterparts and to set up contact networks.

In the summer of 2006, the Ministry of Tourism instituted a program to combat sex tourism (by French citizens and residents). As of September 2006, anti-trafficking police officials were assigned to 12 French embassies in countries with well-known sex tourism trades (Brazil, Cambodia, Costa Rica, India, Indonesia, Morocco, Mexico, the Philippines, The Dominican Republic, Senegal, Sri Lanka, and Thailand) in an attempt to prosecute offenders, and raise official awareness and cooperation in those countries.

After years of poor cooperation, OCRETH and Nigerian law enforcement officials have begun planning a collaboration, to be instituted in 2007, to fight Nigerian recruitment networks. The French will send personnel to Nigeria to provide information gleaned from victims found in France, and to develop a program of interdiction with Nigerian officials. Police officers involved in the fight to combat trafficking travel regularly to source countries to work with their counterparts, although they have had problems finding willing counterparts in Sierra Leone, and Cameroon.

K. France can extradite persons suspected of trafficking to other countries, and the process can be expedited when the seeking country is a fellow party to the European arrest warrant. In the case of a country such as Bulgaria or Romania, extradition is subject to the Council of Europe extradition treaty. France does not extradite its own citizens.

L. There is no evidence of French government involvement in

or tolerance of trafficking on either a local or national level. Governmental authorities do not facilitate or condone trafficking, nor are they otherwise complicit in such activities.

¶M. Punishments for any official person whose post requires him/her to participate in the fight against human trafficking who is found guilty of trafficking are more severe than the penalties for traffickers (French penal code, Article 225-4-2), and the law provides for a seven-year imprisonment and fine of up to 750,000 euros if someone "cannot account for resources corresponding to one's lifestyle while being in close contact with one or more (trafficking) victims or perpetrators" (Art. 225-4-8).

¶N. France's child sex tourism laws have extraterritorial coverage. Sex with minors can be punished under French law if the act is committed by a French national or by a person habitually resident on French territory (i.e., the person need not be a French citizen to be subject to the law). (Penal Code, Art. 225-12-3).

In May 2005, 20 leading tourism professionals signed a charter with Tourism Minister Bertrand pledging to increase their efforts against child sex tourism. Under the charter, the companies agree to conduct several actions to aid in the fight. Currently, nearly 20 companies are enlisted, including Accor hotels, Air France, Carrefour, Thomas Cook, Corsair, and others. Together they produce awareness raising ads in guidebooks and magazines, on in flight videos (Air France) and in hotel literature.

¶O. France has signed and ratified all the referenced instruments
ILO Convention 182 - Ratified 9/11/01
ILO Convention 29 - Ratified 6/24/37
ILO Convention 105 - Ratified 12/18/69
Optional Protocol to CRC - Signed 2/6/00, Ratified 2/5/03
Protocol to Prevent, Suppress and Punish TIP supplementing UN Convention against Transnational OC - Signed 12/12/00, Ratified 10/29/02

VICTIM PROTECTION AND ASSISTANCE - Question 24

¶A. A trafficking victim who files a complaint against his/her trafficker(s) or who testifies against him/her is eligible for a temporary three-month card providing residency status and a work permit. If the police can corroborate the victim's report (with reference to names, locations, etc.), the temporary card can be renewed for another three months for a total of six months, and then again for an additional six months. If the trafficker against whom the victim made the complaint or testified is convicted, the victim is eligible for a permanent residency card (Article 76 of Law on Internal Security, Official Journal of March 19, 2003). An association, the Accompaniment Places of Welcome (ALC), provides long-term shelter services for trafficking victims in metropolitan France and Corsica. Thirty-three associations provide 42 places in 36 shelters across France for trafficking victims, and belong to the ALC. The government funds three-quarters of the ALC budget, with the City of Paris funding the last quarter. In 2006, the ALC received notifications on 58 trafficking victims in need of shelter from French associations. ALC placed 52 of the victims in 25 shelters, 6 of whom eventually returned to their country of origin. ALC-member shelters provide judicial, administrative, health, and psychiatric assistance; help in finding a job or getting new training; assistance to the victim to return to his/her country of origin if that is what he/she wants; and food and lodging.

On October 31, 2005 the Interior Ministry issued a circular reminding police, prefecture, and departmental leaders of the means by which they can authorize temporary residence permits and encouraging them to consider disseminating them more

broadly. The text includes a specific reference to the residence permits that can be authorized in conjunction with the 2003 Law on Internal Security (LSI) for trafficking victims. It clarifies that the temporary residence permit that can be offered to trafficking victims is for six months (rather than three) and encourages authorities to take into consideration the presentations that NGOs make on the victim's behalf when considering whether to grant a permit. The circular further reminds that a principal condition of the granting of the permit is the victim's total cutting of ties with the persons exploiting her or him. The exact language of the circular reads (informal Embassy translation): "Beyond the hypotheses envisaged by the law (2003 LSI), other situations of distress can justify a humanitarian and benevolent examination. In this regard, I ask you to give particular attention to all the victims of modern slavery who seek a temporary residence permit, alone or supported by an association, without having necessarily cooperated with the police or justice system nor immediately testified against their exploiters for fear of reprisals. In this case, I ask you to implement your power of appreciation to examine humanly sensitive situations, when there appear serious indicators letting one presume the quality of the asking victim, resulting from the realistic character of his/her story, of his/her having been taken in charge by an association and the proofs that he/she furnishes on behalf of his/her will to rejoin society." (Ministry of Interior, Circular NOR/INT/D/05/00097/C, October 31, 2005)

¶B. See above, the government provides the bulk of the budget of the NGO in charge of the shelter network.

¶C. Social services, NGOs, or police can call the ALC to request placement for a victim. There are short-term emergency centers that host the victim while the long-term shelter is preparing to receive her/him. The entry questionnaire for ALC is deliberately limited in order to protect victims in case they are collaborating with the police or serving as a witness.

¶D. Some prostitutes have been fined under the 2003 LSI. While the maximum fine under the law is 3,750 euros, OCRETH estimates that the average fine is about 340 euros. The government believes that bringing the victims in off the street accomplishes two goals: 1) it is an opportunity for the police or an NGO to encourage him/her to file a complaint against his/her trafficker(s) and 2) taking the victim off the street for a night or a day deprives the trafficker of income.

¶E. See above, authorities encourage victim participation in trafficking investigations and prosecutions.

¶F. The GoF issues temporary, renewable residence permits of three and six months to victims of trafficking who make a formal complaint against their traffickers. The GoF does not provide information on how many of these permits it issues, as they are provided through mayor,s offices and not tabulated nationally. The GoF does not/not have a witness protection program by which it could, for example, disguise the identity of victims for reinsertion into society.

¶G. The fight against child sex tourism is a mandatory element of the training that students in French tourism schools undertake to receive their degrees.

¶H. Post is not aware of any instances of repatriated French trafficking victims.

¶I. There are numerous NGOs in France that work with adult and child victims of trafficking, prostitution, child sex tourism, and forced labor. A few of the more prominent are (organizations centered in Paris unless noted otherwise):

Amis du Bus des Femmes - (Friends of the Women's Bus). NGO that works with prostitutes, both trafficked and untrafficked, to provide care and to help reinsert them in a non-prostitute life. The NGO drives its equipped bus to

locations frequented by victims; it provides medical attention but also seeks to be a refuge for victims in hopes of helping them extricate themselves from slavery.

Amicale du Nid - Founded in 1946, NGO that works on the streets to aid prostitutes and provide shelter, training, and other assistance in Paris, Lyon, Toulouse, Marseille, Grenoble, and Montpellier. Has a bus service, Intermede.

Association Against Child Prostitution (ACPE)) Supports shelters for child prostitution victims in the Philippines and Guatemala. Provides training for French tourism students on sexual tourism involving children. Supports legal cases against French nationals prosecuted for engaging in sexual acts abroad with minors.

Association of Places of Accompaniment (ALC), Nice) Created in 1913, ALC provides social services in the Alpes-Maritime department of France. Its specialized Service for Prevention and Social Readaptation (SPRS) provides assistance to people in prostitution and victims of human trafficking. It coordinates multiple preventative programs. SPRS provides street work (social workers, public health workers, and cultural mediators go on the streets from 8 pm to 3 am), counseling, vocational guidance and follow-up, cultural and linguistic mediation (SPRS staff speak several of the languages of trafficked victims), awareness and information campaigns, professional training, and runs a national network of protection for victims of trafficking known as Ac.Se. (Secure Welcome). SPRS Director Patrick Hauvuy works tirelessly to help trafficking victims and to raise the level of services available to victims both within France and within Europe broadly as well. He is extremely active in visiting source countries and working with NGO personnel and authorities there.

Committee Against Modern Slavery (CCEM) - Founded in 1994, the CCEM helps victims of domestic servitude. Since its inception, the CCEM has helped about 300 victims; CCEM officials estimate they take on about 30 new cases each year. In July 2005, the French state was found guilty in a CCEM-sponsored case at the European Court of Human Rights of having failed to adequately protect a young Togolese woman.

ECPAT France - NGO that works to combat sex tourism involving children, affiliated with the international ECPAT network. ECPAT France was founded in 1992. ECPAT works within an international network. In France it is very active with Air France, which sells goods for which the proceeds go to Ecpat, and shows on its buses to Paris airports a video warning of the potential judicial consequences of engaging a minor for sex abroad (making the point that French nationals are bound by French law on the matter even outside French territory).

Esclavage Tolerance Zero (Marseille) - Works with CCEM in Paris, but focuses also on sex slaves in addition to domestic slavery.

Fondation Scelles - Founded in 1993, fights against prostitution and trafficking in persons. Has a very strong legal research team, which publishes on pan-European legal schema for combating trafficking. Also works with NGOs in source countries.

Mouvement du Nid - Part, along with Amicale du Nid, of Nid (Nest), which seeks to create a society without prostitution. It is present in most regions of France, and in some other countries (Brazil, Portugal, Belgium, and Cote d'Ivoire).

Terre d'Asile - Founded in 1971 to promote the daily use of the right of asylum, follow the evolution of legal dispositions and administrative measures relating to asylum, help welcome refugees and asylum-seekers, and advocate a policy of social and professional readaption.

La Voix de l'Enfant - "Voice of the Child," Founded in 1981. Its goal is "To Listen to and Defend Childhood in Distress in France and in the World." Works in several different fields,

including combating sex tourism involving children. Has
several affiliate organizations as well.
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